

[Dkt. No. 5]

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE

IN RE: VALSARTAN N-  
NITROSODIMETHYLAMINE (NDMA)  
CONTAMINATION PRODUCTS  
LIABILITY LITIGATION

MDL No. 2875

Case No. 1:19-md-02875-RBK-KMW

This document relates to:

ROSA MAE FRANKS,

Plaintiff,

v.

AUROBINDO PHARMA, LTD., *et al.*,

Defendants.

Case No. 1:20-cv-00583-RBK-KMW

**ORDER**

THIS MATTER having come before the Court on the Motion of Cassandra Moultrie by and through Counsel for Rosa Mae Franks ("Counsel") [Dkt. No. 5] seeking (i) to substitute Cassandra Moultrie, as appointed Personal Representative/Administrator of the Estate of Rosa Mae Franks, as Plaintiff in this matter in place of Plaintiff Rosa Mae Franks pursuant to Federal Rule of Civil Procedure 25(a) and (ii) leave to file a Second Amended Short Form Complaint; and there being no opposition to the Motion; and the Court having considered the submissions; and

THE COURT NOTING that in support of the Motion, Counsel presents evidence that Plaintiff Rosa Mae Franks died on August 8, 2020 and;

THE COURT NOTING that Cassandra Moultrie is the surviving daughter of Plaintiff Rosa Mae Franks and was appointed the Personal Representative/Administrator of the Estate of Rosa Mae Franks on November 24, 2020; and

THE COURT NOTING that no Suggestion of Death has been previously filed on the docket; and

THE COURT NOTING that the Motion is governed by Federal Rule of Civil Procedure 25(a), which provides that:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1); and

THE COURT FINDING that Fed R. Civ. P. 25(a)(1)'s 90-day timeliness requirement for substitution is satisfied because no Suggestion of Death has been filed on the record to trigger the 90-day time limit provided in the Rule; and

THE COURT FINDING that Defendants would not suffer any prejudice from this substitution;

Accordingly, IT IS on this **10th** day of **August, 2021**, hereby,

**ORDERED** that the Motion [Dkt. No. 5] is **GRANTED**. The Motion to substitute Cassandra Moultrie as Plaintiff is hereby **GRANTED**, and Cassandra Moultrie, as Personal Representative/Administrator of the Estate of Rosa Mae Franks, is hereby **SUBSTITUTED** in place of Plaintiff Rosa Mae Franks; and it is further

**ORDERED** that the Clerk of the Court shall amend the case caption accordingly; and it is further

**ORDERED** that Plaintiff's Motion [Dkt. No. 5] for leave to amend the Complaint is **GRANTED**<sup>1</sup>. Plaintiff shall file the Amended Complaint, in the form attached to the Motion, within seven (7) days of receipt of this Order and shall serve same in accordance with the Federal Rules of Civil Procedure.

s/ Karen M. Williams  
KAREN M. WILLIAMS  
United States Magistrate Judge

cc: Hon. Robert B. Kugler

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<sup>1</sup>The Court notes that motions to amend pleadings in this District typically require the moving party to attach "a form of the amended pleading that shall indicate in what respect(s) it differs from the pleading which it proposes to amend, by bracketing or striking through materials to be deleted and underlining materials to be added," L.Civ.R. 15.1(a)(2), with which movant has not complied. Although the Court acknowledges that Plaintiff provided a copy of the proposed amended pleading, this does not cure the procedural deficiency. However, given the nature of an MDL matter, as well as the use of the Short Form Complaint in this matter, the Court will waive this requirement.